



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1335 East-West Highway
Silver Spring, MD 20910
THE DIRECTOR

June 14, 1993

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary for Oceans and Atmosphere

FROM: Nancy Foster
(Acting)

SUBJECT: Proposed Protocol for Fisheries Management
and Regulatory Actions

This serves to outline a protocol for fisheries management and regulatory actions that will allow for 14 days (10 working days) for your timely review and clearance before the critical date by which an action is required. While there are a host of critical actions with which the agency must deal, I have outlined the two most frequent, which can serve as models for others: (1) a Fishery Management Plan (FMP) or Amendment, which is required by the Magnuson Fishery Conservation and Management Act (Act) to be either approved, disapproved or partially disapproved by the Secretary by day-95 following receipt from the Council, and (2) an Emergency action under the Act, which is normally processed by day-26 from the receipt date.

An FMP or Amendment involves a proposed rule, which must, under the Act, be published in the Federal Register (FR) by day-15 following receipt, and a final rule, which must be published by day-110, and is made effective on day-140 following a 30-day "cooling off" period required by the Administrative Procedure Act. This 30-day period may be reduced or waived for good cause. An Emergency rule is normally made effective upon filing at the FR, without the benefit of public review and comment.

In order to achieve critical dates in both processes outlined, and allow you the needed 10 working days to review and clear the action, an extremely tight schedule is proposed for all levels of involvement, beginning with the National Marine Fisheries Service (NMFS) Regional Director and staff. Historically, clearance and approval procedures have involved the Regional Director, NMFS; the Regional Attorney, NOAA; the Office of Fisheries Conservation and Management (F/CM) that serves to review and process the action for NMFS Headquarters; the Office of General Counsel for Fisheries, NOAA; the Office of General Counsel, NOAA ("downtown"), the Office of General Counsel, DOC; the Under Secretary and/or staff; depending upon the nature of the action, and the Office of Management and Budget (OMB).

THE ASSISTANT ADMINISTRATOR
FOR FISHERIES



The Secretary's clearance, by signature, is required also if an action is sufficiently controversial.

The most critical issue, based on hundreds of actions, is the statutory day-15 publication date for a proposed rule for implementing an FMP or Amendment. If the rule is not published by day-15, each additional day of delay deducts a day from the review of public comments and preparation of the final rule prior to the 95-day critical approval date by which the action is automatically approved unless disapproved or partially disapproved by the Secretary. A change in the clearance requirement for this one step, to eliminate the requirement for clearance by the Department's Office of General Counsel, prior to publication in the FR would provide our offices, OMB, General Counsel and yourself, the needed time for review and clearance of the final rule, which is the most important and operative part of any management action. Authorizing this simple yet significant procedural change would not obligate the Department in any way other than to inform the public of a proposed action. Currently, the delegation of authority (Tab A) and established review and clearance protocol do not allow this modification to processing procedures.

Attached for your information at Tab B is a typical 95-day "fast track" action for an FMP or Amendment, showing the critical dates and various levels of review and clearance that must be met. Tab C is our proposed modification that will meet your desired schedule of events. Tab D indicates a typical 26-day schedule for Emergency rules that currently exists, while Tab E offers an alternative for achieving your required 10 working day period for review and clearance.

I will implement a requirement for each Regional Director to notify F/CM, via memorandum and electronic mail (Tab F), with copies to my office and the Office of Legislative Affairs (F/LA) within 3 working days of the Council meeting of: (1) the Council's recommended action, (2) the critical date by which the action must be implemented, and (3) whether or not the action is controversial. If a critical date is involved, F/CM will develop a schedule of preparation and clearance dates by back-calculating from the critical implementation/approval date by which all actions must be completed, and which includes your 10-day review and approval period. This schedule will be delivered via electronic mail and memorandum to the Regional Director and other review/clearance offices. The Regional Director will be directed by me to designate a single individual in the Regional Office whose responsibility it will be to track the action to assure the scheduled dates at the Regional Office are met. The Director of F/CM will designate a single individual who will work with his/her counterpart in the Regional Office to track the action in Headquarters through all review/clearance stages to completion. In addition, the Director of F/CM and the Regional Director will

confer via telephone immediately after the Council meeting on the nature of the action and its details to determine whether the action is approvable under the Act and whether there are any obvious sensitive issues.

My office will learn of the action at the same time as F/CM and determine whether the issues involved with the action require a briefing for you because of any controversial element(s). In addition, each Monday during your staff meeting with the AA's, I will outline "hot items" to provide a heads-up process so that you will learn and remain aware of developing issues and deadlines for final action. Depending upon the nature of the action involved, and any unforeseen circumstances, I intend to schedule briefings for you to continue to keep particular items at the action level.

An additional simplification process I propose is to encourage the Councils to begin incorporating as much "frameworking" as possible into the FMP/Amendment process. This involves approval of a proposed range of possible actions that might be necessary under a particular management program. Depending on the type of framework action, these may be subjected to additional public review and comment before implementation. This will ultimately allow NMFS to publish more management actions without first publishing a new proposed and final rule and would reduce the number of "fast-track" actions.

Finally, I recommend that approval authority (Tab A) be modified to require the Under Secretary/Administrator to advise the Secretary when, not before, final action is taken concerning MFCMA actions. An amendment to Department Organization Order Series 10-15 that changes one word, that is highlighted on Tab A, is needed to accomplish this change.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1335 East-West Highway
Silver Spring, MD 20910
THE DIRECTOR

June 14, 1993

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary for Oceans and
Atmosphere

FROM: Nancy Foster
(Acting)

SUBJECT: PROPOSED ACTIONS TO IMPROVE THE MFCMA
REGULATORY PROCESS

1. You recommend that the Secretary amend Department Organization Order Series 10-15 regarding delegation of authority for controversial actions.
2. You recommend that the Secretary discuss with OMB Director Panetta the critical need to review and clear final regulations in a timely manner.
3. You recommend that the Secretary eliminate DOC General Counsel clearance of proposed rules prior to publication in the Federal Register.
4. Assistant Administrator for Fisheries require each Regional Director, within 3 working days of a Council meeting, to report Council-recommended actions, their critical dates, and whether they are controversial.
5. Assistant Administrator for Fisheries require a "schedule of events" to be prepared for each regulatory action that specifies action due dates for each critical event leading to implementation.

THE ASSISTANT ADMINISTRATOR
FOR FISHERIES





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 North West 16th Way
Silver Spring, MD 20910
TIDE DIRECTOR

JUN 16 1993

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary for Oceans
and Atmosphere
FROM: Nancy Foster
(Acting)
SUBJECT: Actions to Improve the Regulatory Process

It is my understanding that we agreed to the following at our meeting of June 14:

1. You will recommend to the Secretary that Department Organization Order Series 10-15 be amended to remove the requirement that the Secretary be informed before controversial actions are taken. Instead, the Secretary would be informed when such actions are taken. You would retain the ability to inform the Secretary prior to taking any action you consider to be especially controversial.

(Benefits: Shortens clearance process; eliminates special requests to the Secretary for clearance.)

2. You will discuss with Christopher Edley at OMB the critical need to clear regulatory actions on a timely basis and to exempt emergency actions from OMB clearance under the Panetta memo. Also, OMB should be strongly urged to contact us immediately concerning any action with which they have problems so that they can be resolved quickly and the action cleared.

(Benefits: Shortens clearance time; problem areas can be addressed without undue delays.)

3. You will recommend to the Secretary that DOC General Counsel clearance of proposed rules prior to publication in the Federal Register be eliminated.

(Benefits: Shortens clearance time; DOC review can proceed during the public comment period without any commitment to the proposed action other than making the public aware of it.)

cc: F/CM, F/CM2(2), GCF-Hayes, F/CU, Fx1-Matlock, Fx2-McKeen

F/CM2:GHDarcy:301/713-2343:6/14/93:ghd (d) (J:\HALL)



4. The Assistant Administrator for Fisheries will require each NMFS Regional Director, within 3 working days of a Council meeting, to report all Council-recommended actions, their critical dates, and their controversiality. For all emergency actions, the Council vote on each recommended measure and the Council Chairman's written concurrence with the memorandum will be provided.

(Benefits: Early warning of all impending regulatory actions; reduced likelihood of misunderstanding of Council intent on emergency actions.)

5. The Assistant Administrator for Fisheries will require a schedule of events for each regulatory action, which specifies the scheduled due dates for each critical event leading to implementation. The event schedule will clearly indicate, in red, the critical dates, and will be prominently attached to the front of each regulatory package. The event schedule will be modified to include a point of notification for the Public Affairs and Legislative Affairs offices.

(Benefits: Emphasis on timely clearance, with accountability; highlights critical dates to all reviewers; builds in early notification points.)

6. The Office of Fisheries Conservation and Management will designate a single individual responsible for each action who will track the action throughout its review and clearance, starting with receipt of the memorandum of Council action from the Regional Director.

(Benefits: Provides a single contact point and greater accountability; less likely actions will get lost or stalled.)

7. NMFS will explore measures for simplifying and shortening documents and using plain language in all regulatory documents, while maintaining legal requirements.

(Benefits: Documents will be easier to read, easier to understand, easier to clear; main points will be highlighted; publication costs reduced.)

8. Councils will be required to modify their Standard Operating Practices and Procedures to require that, before any roll call vote is taken, there be a motion in writing before the Council.

(Benefits: All Council members will know exactly what is being voted on; establishes a written record of all votes.)

(Note: This may be controversial among the Councils. Some may feel this slows the process and interferes with the normal flow of Council business.)

9. You will work with NOAA staff and NOAA Exec-Sec to remove barriers to clearance of regulatory packages and to develop procedures that will clearly highlight regulatory actions as requiring immediate attention.

(Benefits: Speeds clearance process.)

Conclusions

Our objectives are to shorten and simplify the regulatory review and clearance process; to eliminate redundant or unnecessary clearance points; to provide as much advance notice as possible to you and other decisionmakers in the process; to increase accountability; and to produce regulatory documents that are understandable and timely, such that resources are protected and disruptions to the public are minimized.



22
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, Maryland 20910

JUNE 23, 1993

MEMORANDUM TO: Regional, Science and Office Directors
FROM: *Gary Matlock*
Gary C. Matlock
Acting Deputy Assistant Administrator for Fisheries
SUBJECT: Action to Improve the Regulatory Process

Several recent events have led to Assistant Secretary for Oceans and Atmosphere Doug Hall asking Dr. Nancy Foster to develop recommendations for ways to improve the regulatory process (as it relates to fisheries management issues). As a result, several suggestions were presented to Mr. Hall on June 14, 1993 (see attached memo of June 14, 1993), and he agreed to all of the suggestions, including some that were developed at a subsequent meeting. A summary of that meeting is contained in the attached memo dated June 16, 1993. Please note the objectives on page 3 of the June 16, 1993 memo.

As you can see, several offices are expected to implement certain actions. The items most immediately affecting us are numbers 4, 5, 6, 7, and 8.

The Regional Directors are affected most directly by numbers 4 and 8. Effective at the conclusion of each of the next scheduled Council meeting in each Region and thereafter, each Regional Director should begin providing a completed memo (format attached in briefing package given to Mr. Hall) to Dick Schaefer within 3 working days of each Council meeting. The memo must be signed by both the Regional Director and the Council Chairman.

In addition, each Regional Director should notify the respective Councils that they should modify immediately their Standard Operating Practices and Procedures to require that, before any roll call vote is taken, there be a motion in writing before the Council (item 8). This will insure that everyone knows what is being considered, and should reduce confusion when considering the Councils' requests for implementing rules.



The Office Directors are affected most directly by items 5, 6, and 7. Items 5 and 6 requires the implementation of an events schedule and process for each regulatory action. The proposed schedule presented by Dr. Foster is contained in her June 14, 1993, memo to Mr. Hall. We should implement as of Monday, June 28, 1993, the schedule and system contained in items 5 and 6.

Item 7 is being addressed within Headquarters and a memoranda will be forthcoming.

If you have any questions, please contact me.

Attachments

cc: Foster
McKeen
Bane



FILE COPY

JUL 7 1993

MEMORANDUM FOR: Regional, Science and Office Directors
FROM: *Gary Matlock*
Gary C. Matlock
Acting Deputy Assistant Administrator for
Fisheries
SUBJECT: Clarification to "Action to Improve the
Regulatory Process"

Paragraph three of my memorandum of June 23 made reference to actions to be taken by the Regional Directors following a Council meeting. There is a need to clarify the intent of that paragraph. Two situations are contemplated for which memoranda must be submitted. The first requires a memorandum to be signed only by the Regional Director, and simply summarizes (1) the action taken by the Council, (2) critical dates, and (3) whether the action(s) is controversial. This should be submitted within three business days of the conclusion of a Council meeting.

A second memorandum, to be signed by both the Regional Director and the Council Chairman, is required only when a Council votes for an emergency action.

I hope this clarifies the intent of my memorandum. The operative requirements are contained in Nancy Foster's June 16 memorandum to Doug Hall.

cc: GCF, F/CM4, F/CM2





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THE DIRECTOR

June 14, 1993

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary for Oceans and
Atmosphere
FROM: Nancy Foster *Nancy Foster*
(Acting)
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REGULATORY PROCESS

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confer via telephone immediately after the Council meeting on the nature of the action and its details to determine whether the action is approvable under the Act and whether there are any obvious sensitive issues.

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Finally, I recommend that approval authority (Tab A) be modified to require the Under Secretary/Administrator to advise the Secretary when, not before, final action is taken concerning MFCMA actions. An amendment to Department Organization Order Series 10-15 that changes one word, that is highlighted on Tab A, is needed to accomplish this change.

MEMORANDUM FOR: F/CM - Richard H. Schaefer

FROM: Regional Director

SUBJECT: Fishery Management Council Actions

Be advised that the _____ Fishery Management Council on (date) recommended the following:

1. (Summary of action(s)) _____
2. The action(s) noted is (are) required to be implemented by (indicate critical date(s)).
3. The action(s) is or is not controversial.

cc F - Nancy Foster
F/LA

TRANSMITTAL

United States of America DEPARTMENT OF COMMERCE	DEPARTMENT ORGANIZATION ORDER 10-15 Amendment 6	
DEPARTMENT ORGANIZATION ORDER SERIES	DATE OF ISSUANCE January 21, 1993	EFFECTIVE DATE January 21, 1993
SUBJECT UNDER SECRETARY FOR OCEANS AND ATMOSPHERE AND ADMINISTRATOR OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION		

Department Organization Order 10-15, dated January 11, 1988, is hereby further amended as shown below. This amendment delegates to the Under Secretary for Oceans and Atmosphere and Administrator of NOAA: (1) the Secretary's authority under the Pacific Northwest Electric Power Planning and Conservation Act, the Dolphin Protection Consumer Information Act, the Driftnet Impact Monitoring, Assessment and Control Act, the Small Hydroelectric Power Projects Act, the National Aquaculture Act, the Federal Water Pollution Control Act, and the National Fishing Enhancement Act of 1984; the Secretary's functions concerning certificates of legal origin for anadromous fish products; and the Secretary's functions under the Commerce, State, Justice Appropriations Act of 1990 (shrimp embargo); and (2) the Secretary's authority under the Magnuson Fishery Conservation and Management Act to make final findings and notifications under section 306(b). It also deletes the requirements that the Secretary be advised before uniform standards for each Regional Fishery Management Council are prescribed under section 302(f)(6) of the Magnuson Act and before emergency actions are taken under section 305(c) of the Magnuson Act.

SECTION 3. DELEGATION OF AUTHORITY. a. Subparagraph .01cc is revised to read as follows:

"cc. The functions prescribed in the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq. and other miscellaneous provisions), except that the Under Secretary/Administrator shall advise the Secretary before any final action is taken with respect to the following functions:

"1. Establishing guidelines to assist in the development of fishery management plans under subsection 301(b) of the Act;

"2. Appointing or removing members of the Regional Fishery Management Councils under subsection 302(b)(2) or (5) of the Act;

"3. Issuing preliminary fishery management plans and implementing regulations under subsection 201(h) of the Act, if the Under Secretary/Administrator considers the action to be controversial; and

"4. Approving, disapproving, partially disapproving, or issuing a fishery management plan or amendment, or issuing implementing or emergency regulations, under sections 304 and 305 of the Act, if the Under Secretary/Administrator considers the action to be controversial."

b. New subparagraphs .01(gg) through .01(oo) are added to read as follows:

"(gg) The functions assigned to the Secretary of Commerce by the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.).

"(hh) The functions assigned to the Secretary of Commerce by the Dolphin Protection Consumer Information Act (16 U.S.C. 1385).

"(ii) The functions assigned to the Secretary of Commerce by the Driftnet Impact Monitoring, Assessment and Control Act (16 U.S.C. 1822 note).

"(jj) The functions assigned to the Secretary of Commerce concerning certificates of legal origin for anadromous fish products (16 U.S.C. 1822 note).

"(kk) The functions assigned to the Secretary of Commerce by the Small Hydroelectric Power Projects Act (16 U.S.C. 2701-2708).

"(ll) The functions assigned to the Secretary of Commerce by the National Aquaculture Act (16 U.S.C. 2801-2810).

"(mm) The functions assigned to the Secretary of Commerce by the Federal Water Pollution Control Act (33 U.S.C. 1344).

"(nn) The functions assigned to the Secretary of Commerce by the National Fishing Enhancement Act of 1984 (artificial reefs) (33 U.S.C. 2101 et seq.).

"(oo) The functions assigned to the Secretary of Commerce by section 609 of the Commerce, State, Justice Appropriations Act of 1990 (shrimp embargo) (Pub. L. 101-162).

John A. Kneen

Secretary of Commerce

95-DAY SCHEDULED FAST TRACK

(Revised 12/09/92)

<u>DAY</u>		<u>ACTION</u>
		Council transmit date.
0	RD;HQ	Receipt date (5th day after transmit date).
1	RD;F/CH F/CH2	Begin preliminary evaluation. Distribute FMP/amendment, proposed rule, and associated documents to F/CH GCF.
3	RD;F/CH	Make preliminary evaluation. Conference call with RD if necessary. If decision is negative, RD prepares disapproval memo, and F is advised. If decision is affirmative, Secretarial review continues.
4	F/CH2	Distributes FMP/amendment; EA or EIS; proposed regs; schedule. Sends NOA with public comments due by Day 60.
5	F/CH F	Sends copy of IRFA to SBA, if significant under RFA; request comments by C. Transmits PRA documents to NOAA, if paperwork burden is changed.
6	F/CH2	Prepares proposed regs pkg.; GCF clears; forwards to F/CH and F.
7	F	Signs decision memo; forwards regs pkg. to DOC with copy to NOAA GC. If controversial action, forwards information memo and communications action to A.
10	DOC	Reviews proposed regs, provides docket number to F/CH2, forwards regs pkg. OMB, forwards information collection request (if any) to OMB.
12	F	Signs proposed rule; F/CH2 sends to OFR.
15	OFR RD	Publishes proposed rule; public comment period begins. Makes regs pkg. available to public.
54	F/CH F/CH2	Transmits HQ/NOAA/DOC/SBA/Coast Guard/State Dept. comments to RD. Files FEIS/FSEIS with EPA (if applicable).
60	Public RD	Comment period ends (if Sat. or Sun., the following Mon.). Begins preparation of final regs. pkg.
75	RD	Approves/disapproves FMP/amendment, transmits final regs pkg. to F/CH2.
76	F/CH2	Prepares final regs pkg.; GCF clears; forwards to F/CH.
80	F/CH	Consults with RD, if necessary; briefs F on pending action.
95	F RD	Concurs in approval/disapproval; forwards final rule to DOC through NOAA G signs FONSI, if applicable, and forwards to NOAA. Notifies Council of decision.
96	DOC	Transmits final rule to OMB.
106	OMB DOC	Notifies DOC of clearance of final rule. Provides docket number to F/CH2.
107	F F/CH2	Signs final rule. Sends final rule to OFR.
110	OFR	Publishes final rule. APA delayed effectiveness period begins.
140	Public	End of APA delayed effectiveness period; final rule becomes effective.

FISHERY MANAGEMENT ACTION

CFR Part/Title: _____

Needs to be Effective By: _____

Type of Action: _____ Fast-Track? _____

Responsible NMFS HQ Office: _____

Contact: _____

Controversial? _____

Clearance/Action (working days)	Date Scheduled	Date Completed
Received from Council		/ /
Received from Region (signed and dated)		/ /
NOAA Informed of Action	/ /	/ /
Cleared by F/CM2 Reviewer and Regs Unit ()	/ /	/ /
Cleared by GCF ()	/ /	/ /
Cleared by F/CM2 ()	/ /	/ /
Cleared by Office Director ()	/ /	/ /
Cleared by F ()	/ /	/ /
Review by NOAA Begins	/ /	
Cleared by NOAA GC ()	/ /	/ /
Cleared by DOC OGC ()	/ /	/ /
Cleared by NOAA for OMB ()	/ /	/ /
Cleared by OMB ()	/ /	/ /
Docket No. Issued by DOC OGC ()	/ /	/ /

Return completed schedule sheet to: Plans and Regulations
Division (F/CM2), NMFS,
SSMC1

EMERGENCY ACTION

<u>Completed</u>	<u>Scheduled</u> <u>Day Date</u>	<u>Action</u>	<u>Description of the Events and Comments</u>
			When an emergency action is initiated, F/CM2, in consultation with Region, prepares & transmits briefing memo from A to the Secretary (CD-183) giving advance notice that an emergency rule is forthcoming for Secretarial concurrence, describing the emergency action, issues, controversial aspects, if any, and estimating the action date.
1		RD:FCM2:FCM1	Receipt of emergency package. F/CM1 reviews rule, F/CM2 reviews action memo, etc.
3		FCM1	Sends rule to F/CM2, GCF, and PP2 for review. Forwards to FS21 if regulation would change paperwork burden.
5		FCM2:GCF:PP2: FS21	Send review comments to F/CM1. Sends rule & supporting PRA documents to NOAA for review & immediate transmission to DOC if Paperwork burden is changed; notifies F/CM1.
8		RD:FCM:FCM2: FCM1:GCF:GCRA	Conference call, if any problems need discussing.
8-12		FCM2:FCM1	Clear emergency interim rule, regulatory action and Secretary's decision memos, with comments, through NMFS/GCF & appropriate offices.
12		FCM2:FCM1	Cleared rule, regulatory action & Secretary's decision memos, SF-83R & transmittal memo to FCM for review.
16		FCM	Approves package, sends to F.
18		F	Approves package; forwards to A.
23		A	Approves sends pkg. for GC/DOC review.
26		DOC	Approves pkg., Secretary signs off. Provides docket number to F/CM1.
26		FCM1	Sends emergency rule for F signature & files rule with OFR.

FISHERY MANAGEMENT ACTION

CFR Part/Title: _____

Needs to be Effective By: _____

Type of Action: Emergency Interim Rule

Responsible NMFS HQ Office: _____

Contact: _____

Controversial? _____

Clearance/Action (working days)	Date Scheduled	Date Completed
Received from Council		/ /
Received from Region (signed and dated)		/ /
NOAA Informed of Action	/ /	/ /
Cleared by F/CM2 Reviewer		
and Regs Unit ()	/ /	/ /
Cleared by GCF ()	/ /	/ /
Cleared by F/CM2 ()	/ /	/ /
Cleared by Office Director ()	/ /	/ /
Cleared by F ()	/ /	/ /
Review by NOAA Begins	/ /	
Cleared by NOAA GC ()	/ /	/ /
Cleared by DOC OGC ()	/ /	/ /
Cleared by NOAA for OMB ()	/ /	/ /
Cleared by OMB ()	/ /	/ /
Secretary Informed	/ /	/ /
Docket No. Issued by DOC OGC ()	/ /	/ /

Return completed schedule sheet to: Plans and Regulations
Division (F/CM2), NMFS,
SSMC1



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1335 East-West Highway
Silver Spring, MD 20910
THE DIRECTOR

JUN 16 1993

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary for Oceans
and Atmosphere
FROM: Nancy Foster
(Acting)
SUBJECT: Actions to Improve the Regulatory Process

It is my understanding that we agreed to the following at our meeting of June 14:

1. You will recommend to the Secretary that Department Organization Order Series 10-15 be amended to remove the requirement that the Secretary be informed before controversial actions are taken. Instead, the Secretary would be informed when such actions are taken. You would retain the ability to inform the Secretary prior to taking any action you consider to be especially controversial.

(Benefits: Shortens clearance process; eliminates special requests to the Secretary for clearance.)

2. You will discuss with Christopher Edley at OMB the critical need to clear regulatory actions on a timely basis and to exempt emergency actions from OMB clearance under the Panetta memo. Also, OMB should be strongly urged to contact us immediately concerning any action with which they have problems so that they can be resolved quickly and the action cleared.

(Benefits: Shortens clearance time; problem areas can be addressed without undue delays.)

3. You will recommend to the Secretary that DOC General Counsel clearance of proposed rules prior to publication in the Federal Register be eliminated.

(Benefits: Shortens clearance time; DOC review can proceed during the public comment period without any commitment to the proposed action other than making the public aware of it.)

cc: F/CM, F/CM2(2), GCF-Hayes, F/CU, Fx1-Matlock, Fx2-McKeen

F/CM2:GHDarcy:301/713-2343:6/14/93:ghd (d) (J:\HALL)
Printed in Final:6/14-15/93:pab



4. The Assistant Administrator for Fisheries will require each NMFS Regional Director, within 3 working days of a Council meeting, to report all Council-recommended actions, their critical dates, and their controversiality. For all emergency actions, the Council vote on each recommended measure and the Council Chairman's written concurrence with the memorandum will be provided.

(Benefits: Early warning of all impending regulatory actions; reduced likelihood of misunderstanding of Council intent on emergency actions.)

5. The Assistant Administrator for Fisheries will require a schedule of events for each regulatory action, which specifies the scheduled due dates for each critical event leading to implementation. The event schedule will clearly indicate, in red, the critical dates, and will be prominently attached to the front of each regulatory package. The event schedule will be modified to include a point of notification for the Public Affairs and Legislative Affairs offices.

(Benefits: Emphasis on timely clearance, with accountability; highlights critical dates to all reviewers; builds in early notification points.)

6. The Office of Fisheries Conservation and Management will designate a single individual responsible for each action who will track the action throughout its review and clearance, starting with receipt of the memorandum of Council action from the Regional Director.

(Benefits: Provides a single contact point and greater accountability; less likely actions will get lost or stalled.)

7. NMFS will explore measures for simplifying and shortening documents and using plain language in all regulatory documents, while maintaining legal requirements.

(Benefits: Documents will be easier to read, easier to understand, easier to clear; main points will be highlighted; publication costs reduced.)

8. Councils will be required to modify their Standard Operating Practices and Procedures to require that, before any roll call vote is taken, there be a motion in writing before the Council.

(Benefits: All Council members will know exactly what is being voted on; establishes a written record of all votes.)

(Note: This may be controversial among the Councils. Some may feel this slows the process and interferes with the normal flow of Council business.)

9. You will work with NOAA staff and NOAA Exec-Sec to remove barriers to clearance of regulatory packages and to develop procedures that will clearly highlight regulatory actions as requiring immediate attention.

(Benefits: Speeds clearance process.)

Conclusions

Our objectives are to shorten and simplify the regulatory review and clearance process; to eliminate redundant or unnecessary clearance points; to provide as much advance notice as possible to you and other decisionmakers in the process; to increase accountability; and to produce regulatory documents that are understandable and timely, such that resources are protected and disruptions to the public are minimized.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 E. BAYVIEW BLVD.
SILVER SPRING, MD 20910
THE DIRECTOR

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Hollingshead
J. Bush
from Fx3 mtg

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JUN 16-1993

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary for Oceans
and Atmosphere

FROM:

Nancy Foster
(Acting)

SUBJECT: Actions to Improve the Regulatory Process

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F/CM2:GHDarcy:301/713-2343:6/14/93:ghd (d) (J:\HALL)
Printed in Final:6/14-15/93:pab



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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1335 East-West Highway
Silver Spring, MD 20910
THE DIRECTOR

JUL 23 1993

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary for Oceans and Atmosphere
FROM: *Gary Matlock*
for Nancy Foster
(Acting)
SUBJECT: Action to Improve the Regulatory Process
--Follow-Up

It has now been about a month since we met to develop procedures for improving the regulatory process, and much progress has been made. My June 16 Memorandum to you (copy attached) outlined nine specific actions to be taken that collectively would serve to improve communications among interested parties and reduce the delay in processing regulatory actions. You may recall that I had the responsibility for implementing items 4 through 9. Items 1, 2, and 3 were beyond my authority.

The following brief summary is intended to keep you informed of my progress, and to ask if you have had any response to the recommendations to the Secretary (Items 1 and 3) or commitments from OMB (Item 2).

- o Items 4, 5, and 6 have been fully implemented.
- o Item 7 has been initiated in conjunction with GCF, NOAA GC, and DOC GC. I anticipate significant changes in documents to begin appearing within the next few weeks.
- o Item 8 is being implemented through regional communications with the Councils, and the development of a final interim rule which you will see within the next 2 weeks.
- o Item 9 is being implemented, and procedures are evolving as we identify the effects of changing each step in the process.

As I indicated during our meeting on June 14 and in my subsequent memo of June 16, the changes that are within my control can and are being implemented very quickly. However, the effect of these changes will pale in comparison to the effect of changes in the Secretary's Department Organization Order Series 10-15 and



the elimination of DOC GC's review of proposed rules. If there is anything I can do to assist in affecting these changes, please let me know.

I very much appreciate your interest and assistance in improving the critically important regulatory aspects of our mission.

Attachment

cc: F/CU	F/BP
F- Foster	F/MS
Fxl-Matlock	F/PC
Fx2-McKeen	
Fx3-Sissenwine	F/EN
F/NE	F/CM
F/SE	F/IA
F/SW	F/TS
F/NW	F/RE
F/AK	F/PR
	F/HP

ATTACHMENT

F - Matlock



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1335 East-West Highway
Silver Spring, MD 20910
THE DIRECTOR

JUL 27 1993

MEMORANDUM FOR: Regional, Science and Office Directors
FROM: *Gary Matlock*
Gary C. Matlock
Acting Deputy Assistant Administrator
for Fisheries
SUBJECT: Further Clarification to "Action to Improve the
Regulatory Process"

With regard to the Regional Director's post-Council meeting memorandum to F/CM, copy to F and F/LA, be advised that the report can be forwarded by electronic mail within 3 days of the conclusion of the meeting provided a signed memorandum that reflects the same information is submitted within 2 weeks after the Council meeting. Please note that this does not apply to emergencies, which require a memorandum, signed by the Regional director and the Council Chairman, 3 days following the Council meeting.

The memorandum should include a brief reason why a particular date is critical, e.g., fishery opens, etc., and why an issue is controversial, e.g., allocations alleged to be inequitable between commercial and recreational fisheries sectors.

The post-Council memorandum is not intended to become an administrative burden. Its sole intent is to keep us informed early of issues likely to cause controversy or otherwise instigate political inquiry. Its primary purpose will be to provide information for Douglas Hall from Nancy Foster, and to give Richard Schaefer a heads-up for your joint communication on "sticky" issues.

cc: Nancy Foster
Sam McKeen
GCF

THE ASSISTANT ADMINISTRATOR
FOR FISHERIES

